

**BOARD OF SELECTMEN
MEETING MINUTES
MONDAY, NOVEMBER 21, 2005
ABLONDI ROOM**

1 **Attendance:** Katherine E. Murphy, Chair; John H. Stasik, Vice Chair; Charles J.
2 Sisitsky, Clerk; A. Ginger Esty, Member; Dennis L. Giombetti, Member

3
4 **Staff:** George P. King, Jr., Town Manager; Mark J. Purple, Assistant Town Manager;
5 Scott T. Morelli, Executive Assistant

6
7 Emergency meeting called to order at 4:00 PM.
8

9 Consideration of Opening and Closing the Warrant for a Special Town Meeting

10
11 Ms. Murphy noted the only article of business could be the consideration of opening and
12 closing the warrant for a Special Town Meeting. She noted the reason for the emergency
13 meeting was because this was the last day possible to have the Special Town Meeting to
14 be held on December 7, 2005. Mr. Sisitsky noted it was also an emergency meeting
15 because it was being held before 7:00 PM.
16

17 Ms. Esty said the Selectmen's office should incur the additional costs associated with
18 calling a second Special Town Meeting as it was a result of a mistake by the office in not
19 including the article on the first warrant. Mr. King said there was not a mistake made by
20 the Selectmen's office as there was not a request to call a Special Town Meeting or to put
21 this article on a warrant. Ms. Esty asked if there was an email from Ms. Sue Bernstein to
22 Ms. Murphy about this. Mr. King said he was unaware of such an email and noted the
23 only thing received by the Selectmen's office was a notice of a public hearing for a bylaw
24 change from the Planning Board Administrator, Mr. Jay Grande, on Friday, November 4,
25 2005. Ms. Esty asked if the issue was raised at a staff meeting. Mr. King said he was
26 unaware of this. Ms. Murphy said when she became aware of the request on Friday,
27 November 18, 2005 she requested the documents which were then sent to her
28 electronically. She said these documents were notifications of a public hearing. After
29 receiving these documents Ms. Murphy said she asked other Selectmen if they had seen
30 these notices and they said they hadn't. She said it was possible the Board had seen them
31 but that they would not have been recognized as a request to put an article on the warrant.
32

33 Mr. Giombetti suggested that Mr. Grande and Mr. King get together to figure out what
34 happened and any lessons that could be learned and move forward. Mr. King said the
35 reason for all of the phone calls being made on Friday, November 18, 2005 was based on
36 the premise that the staff made an error. He said the staff spent most of the day last
37 Friday looking into this because calls were being made to the Selectmen and he said this
38 raised concerns about the Open Meeting law and the staff being blamed for something
39 that did not happen. Mr. King said if the request was never made then this called in to
40 question the ability to hold an emergency meeting. Ms. Murphy said when the office was
41 notified last Friday that it was critical that this item go on a warrant they made it a
42 priority to call this emergency meeting. She said she received a notification from Mr.
43 Christopher Petrini, Town Counsel, which indicated the notification given by the

1 Planning Board did not constitute an official request for adding anything to the warrant
2 for a Special Town Meeting.

3
4 Ms. Esty said the Planning Board needed to hold a hearing on this matter and wondered if
5 they needed to re-advertise or if they could continue with the hearings already scheduled.
6 Mr. Sisitsky said the Planning Board could hold a hearing anytime and did not need a
7 Special Town Meeting to do so.

8
9 Mr. Grande said there were differing opinions on this matter. He said the communication
10 in reference was clear based on past practices. Mr. Grande said he felt this was the result
11 of an error and said the process should move forward. He noted that there would be a
12 hearing on November 22, 2005. Mr. Grande noted recommendations from Mr. Petrini
13 that he derived from the Attorney General's (AG) letter. He said the AG's letter
14 specifically commented on the section dealing with the modifications of site plan review
15 triggers for any projects proposed within 200 feet of a residential zoning district. Mr.
16 Grande said the AG's office felt that this was not within the scope of the hearing notice
17 that was originally posted. He said the reason he was here today was to correct that scope
18 issue that the AG had pointed out and this is why the Planning Board moved forward
19 with the advertising on the rezoning and site plan review amendment so they would have
20 the opportunity to move rapidly on changes to section 4(I)(2)(C). Mr. Grande noted one
21 of the criticisms to the last change of that section was that it was a bit unclear so he broke
22 it out into two separate subsections this time around. He said that State law outlined a
23 process that was more thoughtful and noted that the Town was trying to do this very
24 rapidly.

25
26 Mr. Stasik said triggers to the site plan were important, especially if related to section 3
27 exemptions in 40A. He said the reason why he would go along with zoning on the fly
28 was because he spoke with Mr. Petrini on a few occasions and was assured that if the
29 Town proceeded with this second Special Town Meeting it would be erring on the side of
30 caution, even though there might be some question as to whether it applied to the current
31 case because they had dropped their appeal to the Zoning Board of Appeals so the matter
32 would be going to the Planning Board for site plan review. Mr. Stasik said normally he
33 got nervous making such quick decisions but with Mr. Petrini's advice he supported this.
34 Ms. Esty said the Board's job was just to be sure articles were properly submitted and
35 placed in the warrant and to not debate the substance of the issues.

36
37 Ms. Murphy said she had been in contact with the Chair of the Planning Board and asked
38 if this was voted on by them to send to the Board of Selectmen. Mr. Grande said they
39 voted to have a hearing and to forward the amendment on. Mr. King asked if there was
40 ever a request to have the Planning Board vote to have a Town Meeting. Mr. Grande said
41 there were not specific requests, just for inclusion on a warrant. Ms. Esty said this was
42 something that Town Meeting had already approved and this was just further clarification
43 on the matter. Mr. King said he was not concerned about the actual article but wanted to
44 be sure the process was legal. He added that there was no request from the Planning
45 Board for a Town Meeting and as such he wondered if this truly warranted an emergency
46 meeting. Mr. Grande said the Planning Board was trying to work within the warrant
47 schedule as they understood it and this is why they submitted the additional amendment

1 as an extra level of caution. He said two separate memos with articles attached were sent
2 so as to not confuse the two. Mr. Grande said the Planning Board's intent was to put the
3 article on the warrant. Ms. Murphy clarified that the vote would be in the Planning Board
4 minutes and Mr. Grande said it would be. He said the Planning Board had not taken a
5 position on whether to hold an emergency meeting.

6
7 Ms. Esty clarified that the motion would open and close a new warrant for a separate
8 Special Town Meeting on December 7, 2005.

9
10 MOVED: To establish this new warrant accepting the Planning Board's material and that
11 it be published and sent out by tomorrow by the Town Clerk's office.

12 Motion: Ms. Esty Second: Mr. Stasik

13 VOTE: 5-0-0

14
15 MOVED: To adjourn.

16 Motion: Mr. Stasik Second: Mr. Sisitsky

17 VOTE: 5-0-0

18
19 Meeting adjourned at 4:18 PM.

20
21
22 Respectfully submitted,

23
24
25
26 Charles J. Sisitsky, Clerk